IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 2ND JANUARY 2007 / 12TH POUSHA 1928

Crl.Rev.Pet.No. 755 of 1999

CRA.100/1995 of CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD
CC.58/1993 of I ADDL. SESSIONS COURT, PALAKKAD

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REVN. PETITIONER/ACCUSED/APPELLANT:

N.SURENDRAN, S/O NARAYANAN, OLAPPURAKKAL HOUSE, KOOVAPADI VILLAGE, KAVUMPURAM POST, PERUMBAVOOR, ERNAKULAM DISTRICT.

BY ADV. SRI.RAJAN JOSEPH

RESPONDENT/COMPLAINANT/STATE:

STATE OF KERALA REP. BY S.I. OF POLICE, TOWN SOUTH, PALAKKAD.

BY PUBLIC PROSECUTOR SRI.SANTHOSH KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.R.P.No. 755 of 1999

ORDER

The petitioner is the accused in C.C.No.58/93 on the file of the Chief Judicial Magistrate's Court, Palakkad. He was convicted by the Chief Judicial Magistrate for offences under Sections 279 and 304(A) IPC and was sentenced to undergo rigorous imprisonment for six months for offence under Section 304(A) IPC with right of set off. No separate sentence was awarded under Section 279 IPC. The appeal filed by him before the Sessions Court as Crl.A.No.100/95 was dismissed by the Additional Sessions Judge. Hence, this revision impugning the legality, propriety and correctness of the conviction and sentence passed as aforesaid.

2. The prosecution case is that deceased Maruthan, one Subramanian, Kumaran and Omana were employed by one Swaminathan for carrying paddy

sheaves from the paddy field to the farm yard of the said Swaminathan at Kannadi. While the deceased and others were carrying paddy sheaves on their heads and proceeding through the National Highway from west to east at 10.45 a.m. on 16.10.2002 a tempo van bearing Reg.No. KBE 3420 driven by the petitioner in the same direction in a rash and negligent manner hit down the deceased from behind and caused fatal injuries to him. Though he was immediately taken to the District Hospital, Palakkad, he succumbed to the injuries.

3. PWs 1 to 3 are independent eye witnesses to the occurrence. PW1 is the informant. He was also attending to the work along with the deceased. PWs 2 and 3 were also working along with the deceased and PW2 is also the son of the deceased. PWs 1 to 3 have supported the prosecution case in all material particulars and as found by the courts below the occurrence stands established on their testimony. PW4 is the doctor who conducted post mortem

examination on the body of the deceased. PW5 is an attestor to the inquest report and PW6 is an attestor to the scene mahazar. The inspection of the vehicle was conducted by PW7, the Joint RTO and his report is to the effect that there is no mechanical defect for the vehicle involved in the accident. PW8 is the police officer, who conducted investigation in the case. It is seen that the courts below have analysed the entire evidence adduced in the case and came to the conclusion that the injured died in the accident involved in the case, viz., he was hit down of tempo van bearing Reg.No.KBE 3420 driven by the accused. The occurrence has taken place in day light and the scene mahazar shows that there is no obstruction to the vision, as the road lies straight and the driver could see clearly to a distance about hundred metres. Unless the petitioner was driving the vehicle in such a rash and negligent manner, the accident involved in the case would not have

occurred. It is also worthy to note that nothing is brought out in evidence of witnesses, which can be assigned as a reason for the accident being caused, if at all it be not the rashness and negligence with which the vehicle was being driven by the petitioner.I see no irregularity, illegality or impropriety in the manner in which the courts below have appreciated the evidence in the case to come to the conclusion that the accused has committed the offences punishable under Sections 279 and 304(A) IPC. The sentence awarded is also very moderate and legal and deserves to be confirmed.

In the result, confirming the conviction and sentence passed against the petitioner by the courts below, this revision is dismissed.

2nd January, 2007 (K.P.Balachandran, Judge)

tkv

K.P.Balachandran, J.

Crl.R.P.No.755 of 1999

ORDER

2nd January, 2007